



ឯកសារច្បាប់ដែលបានបញ្ជាក់តាមច្បាប់
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ថ្ងៃ ខែ ឆ្នាំ ដែលបានបញ្ជាក់ (Certified Date/Date de certification):
 06 08 2009

មន្ត្រីទទួលបន្ទុកសំណុំរឿង/Case File Officer/L'agent chargé
 du dossier: **SANN RADA**

អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា
 Extraordinary Chambers in the Courts of Cambodia
 Chambres Extraordinaires au sein des Tribunaux Cambodgiens

ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ
 Kingdom of Cambodia
 Nation Religion King
 Royaume du Cambodge

ឯកសារដើម
ORIGINAL DOCUMENT/DOCUMENT ORIGINAL

ថ្ងៃ ខែ ឆ្នាំ ទទួល (Date of receipt/Date de reception):
 06 08 2009

ម៉ោង (Time/Heure): 15.550

មន្ត្រីទទួលបន្ទុកសំណុំរឿង/Case File Officer/L'agent chargé
 du dossier: **SANN RADA**

អង្គជំនុំជម្រះសាលាដំបូង
 Trial Chamber
 Chambre de Première instance

WRITTEN RECORD OF PROCEEDINGS - "DUCH" TRIAL

PUBLIC

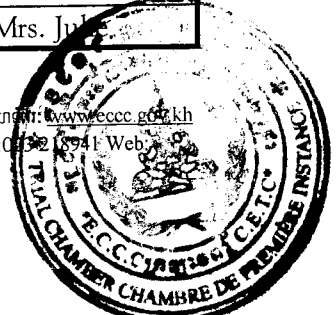
Case File N° 001/18-07-2007-ECCC/TC

28 May 2009

Substantive Hearing - Day 23

Prepared by: Se Kolvuthy and Natacha WEXELS-RISER

Attendance Record
Before: Judge NIL Nonn (President), Judge Silvia CARTWRIGHT, Judge YA Sokhan, Judge Jean-Marc LAVERGNE, Judge THOU Mony.
Reserve Judges: Judge YOU Ottara (Reserve) and Judge Claudia FENZ (Reserve)
Greffier/s: Mr. Matteo Crippa, Mr. Lim Suy-Hong, Mrs. Se Kolvuthy, Ms. Natacha Wexels-Riser.
OCP: Mr. Alexander Bates, Mr. Seng Bunkheang, Mr. Pich Sambath; Mr. Pak Chanlino, Mr. Chea Phalla.
Accused: Mr. Kaing Guek Eav alias Duch.
Defence for the Accused: Mr. Kar Savuth, Mr. François Roux, Mrs. Marie-Paule Canizares; Mrs. Héleyn Uñac, Mr. Chan Ravuth, Ms. Lucile Nattiez
Lawyers for the Civil Parties: Ms. Silke Studzinsky, Mr. Kong Pisey, Mr. Kim Mengkhy, Mrs. Elisabeth Rabesandratana, Ms. Ty Srinna, Mr. Alain Werner, Mr. Hong Kim Suon, Mr. Yung Panith.
Courtroom Officer/CMS: Mr. Uch Arun
Others: Mr. Scott Bywater, Mrs. Maryvonne Maniacky, Mr. Pierre Cozette, Mrs. Julia



Massé.

<u>General court times</u>		
Day	Start time: 9:10	Finish time: 16:45
Recess am	Start time: 10:50	Finish time: 11:30
Recess	Start time: 12:15	Finish time: 13:50
Recess pm	Start time: 14:55	Finish time: 15:15
	Total Court Time:	5 hours

<u>Proceedings</u>			
Type of Issue	Raised By	Start time	Finish time
Questioning of Expert Craig Etcheson on the Issue of Implementation of CPK Policy	Civil Party Group 1	9:11	11:36
Clarifications concerning	TC	9:42	
Questioning of Expert Craig Etcheson on the Issue of Implementation of CPK Policy	Defence	11:37	16:41
Decision to amend the deadline for comments on the military file	TC	15:20	15:21

<u>Summary of Proceedings:</u>
<p>Questioning of Expert Craig Etcheson on the Issue of Implementation of CPK Policy by the Civil Parties Civil Party Group 1 questioned Expert Craig Etcheson on the implementation of the CPK policy.</p> <p>Questioning of Expert Craig Etcheson on the Issue of Implementation of CPK Policy by the Defence The Defence questioned Expert Craig Etcheson on the implementation of the CPK policy.</p> <p>The international Defence Counsel indicated that he would be absent from 8 to 10 June and would be replaced by Mrs. Marie Paule Canizarès. He will be back on 11 June.</p>

<u>Record of Rule 87.3 Proceedings</u>				
TC Ref Number	OCIJ Ref Number	Name/Description	Class. (S, C or P)	Remarks
E3/26	D20	Written Record of Interview of Duch by CIJ on 02-10-2007	Conf	Already in E3 folder



E3/32	D2-15	Written Record of Analysis by Craig C. Etcheson, Investigator of the Office of Co-Prosecutors	Public	00146822-00146887. Already in E3 folder.
E3/17	D30	Written Record of Interview of Duch by CIJ on 29-11-2007	Conf	Already in E3 folder.
E3/11	D38	Written Record of Interview of Duch by the Co-Investigating Judges on 21 January 2008	Conf	Already in E3 folder.
E3/218	D52	Written Record of Confrontation	Conf. To be reclassified at a later date.	00165434-00165441
E3/219	D16	Written Record of Interview of Duch by CIJ on 05-09-2007	Conf.	00147579-00147585
E3/13	IS 6.3	Decisions of the Central Committee on Various Matters dated 30 March 1976	Public	00003141 Already in E3 folder.
E3/28	IS 9.1	Communist Party of Kampuchea Statutes of January 1976	Public	Already in E3 folder.
E3/30 E3/14	IS 13.45 IS 13.2	Meeting of Standing Committee, 9 October 1975	Public	00292868-00292886, 00019108-00019126 Already in E3 folder. No notification needed.
E3/220	D92/1, Annex 5	List of DK Prisons (DC-Cam)	Public	00194821-00194829
E3/221	IS 19.101	Research Notes on Democratic Kampuchea Prison Network	Conf.	00087303-00087332, 00292776-00292802, 00233382-00233428

Oral Orders/Decisions:

1) The Chamber recalled its direction relating to Article 15 of the Torture Convention (See Written Record of 20 May 2009). The Chamber gave the following further clarification. The Chamber wishes to emphasise the importance of the fact that this court is bound by the provisions of Article 15 of the Torture Convention. This provision is reflected in Article 38 of the Cambodian Constitution and also in Rule 21(3) of the



Internal Rules ("No form of inducement, physical coercion or threats thereof, whether directed against the interviewee or others may be used in any interview. If such inducements, coercion, or threats are used, the statements recorded shall not be recorded as evidence before the Chambers"). In practice, this means that the fact that a confession has been made, and that it was made under torture, is an admissible fact. However, the contents of a confession made under torture cannot be accepted as a truthful statement. If any party wishes to refer to the truthfulness or otherwise to the contents of a confession, it will be necessary first to establish if the confession was made under torture or the threat of torture. For that reason, parties should consider whether an examination of the contents of a confession is sufficiently important to seek an inquiry concerning the circumstances under which the confession was made.

2) Decision to amend the deadline for comments on the military file

For a variety of reasons, the full military court file has not yet been translated. The Trial Chamber has however satisfied itself that those parts not yet translated are not critical to its determination of the request for the release of the Accused.

The Trial Chamber is conscious that its decision on the request for release should be delivered by 15 June 2009. The Trial Chamber acknowledges that these difficulties over translation have resulted in an abbreviated period for the parties to comment on the military court file. However in order to allow the Trial Chamber to issue its decision by 15 June 2009, we ask the parties to make any comment on the military court file by 4PM on **Monday 1 June**.

3) Order to take the Accused to the Detention Facility and bring him back to court on 8 June 2009.

Orders for Adjournment of Hearing

Adjournment of Hearing: The hearing will resume after a recess on Monday, 8 June 2009 at 9:00.

The Court resumed late after the morning break because of technical problems in the press room.

SPS - MUR

Phnom Penh,
28 May 2009

Sally
Greffier
Se Kolvuthy



Riser
Greffier
WEXELS-RISER